

DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF WORKERS' COMPENSATION
1515 Clay Street, 17th Floor
Oakland, CA 94612
(510) 286-7100

MAILING ADDRESS:
P. O. Box 420603

San Francisco, CA 94142-0603



October 2011

To: All California Attorneys
From: Administrative Director, Division of Workers' Compensation
Subject: Workers' Compensation Fraud Warning Notice

To promote awareness and to eliminate fraud in the workers' compensation system, the legislature enacted Labor Code section 3822 to require the Administrative Director of the Division of Workers' Compensation to provide every employer, claims adjuster, third party administrator, physician and attorney who participates in the workers' compensation system, an annual notice warning the recipient against committing workers' compensation fraud, and advising of the penalties for such fraud. This annual notice is to all California attorneys and is not targeted to any specific entities or individuals.

Workers' compensation fraud is a drain on California's economy. Workers' compensation fraud harms employers by contributing to the high cost of workers' compensation insurance and self-insurance and it harms employees by undermining the perceived legitimacy of all workers' compensation claims. Workers' compensation fraud is not limited to claimant fraud. The workers' compensation program can also be victimized by fraud committed by medical providers, employers, claims adjusters and attorneys.

WHAT CONSTITUTES ATTORNEY FRAUD?

- Facilitating claimant fraud
- Engaging in client solicitation
- Receiving a fee for referring clients to a medical provider
- Facilitating employer or insurer fraud

WORKERS' COMPENSATION FRAUD IS A CRIME

Insurance Code section 1871.4 provides that it is a felony to make or cause to be made a knowingly false or fraudulent material statement for the purpose of obtaining or denying compensation, as defined in Labor Code section 3207, or present or cause to be presented any knowingly false or fraudulent material statement in support of, or in opposition to, any claim for compensation for the purpose of obtaining or denying compensation, as defined in Labor Code section 3207. It is a crime to knowingly assist, conspire with, or solicit any person in an unlawful act of workers' compensation insurance fraud. It is also a crime to make or cause to be made a knowingly false or fraudulent statement with regard to entitlement to benefits with the intent to discourage an injured worker from claiming benefits or pursuing a claim.

Workers' compensation fraud may be punished by imprisonment which can be in county jail for over one year, or in a state prison, for two to five years. A fine may also be imposed not exceeding \$150,000, or double the amount of the fraud, whichever is greater. If someone is convicted of workers' compensation fraud, the court is required to order restitution to be paid, including restitution for any medical evaluation or treatment services obtained and a convicted person may be charged the costs of the investigation at the discretion of the court. Insurance Code section 1871.5 provides that any person convicted of workers' compensation fraud pursuant to section 1871.4 or Penal Code section 550 shall be ineligible to receive or retain any compensation, as defined in Labor Code section 3207, where that compensation was owed or received as a result of a violation of section 1871.4 or section 550 of the Penal Code for which the recipient of the compensation was convicted.

WORKERS' COMPENSATION FRAUD IS A SERIOUS MATTER

Workers' compensation fraud can increase the cost of doing business and can result in decreases (or no increases) in employee salaries, laying off employees or even going out of business. Workers' compensation fraud can also increase health care costs and the cost of insurance for all Californians. If you would like to obtain more information about the issue of workers' compensation fraud, or would like to report an occurrence of workers' compensation fraud, please call the Department of Insurance Fraud Division's hotline number: (800) 927-4357. You can also access the Fraud Division's fraud reporting form at: <http://www.insurance.ca.gov/0300-fraud/0100-fraud-division-overview/0300-fraud-claims-and-forms/> to obtain more information and locate the telephone number for the Fraud Division office nearest to you. If you have questions about this notice, please contact the Division of Workers' Compensation.

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To: All Workers' Compensation Claims Examiners
From: Administrative Director, Division of Workers' Compensation
Subject: Workers' Compensation Fraud Warning Notice

To promote awareness and to eliminate fraud in the workers' compensation system, the legislature enacted Labor Code section 3822 to require the Administrative Director of the Division of Workers' Compensation to provide every employer, claims adjuster, third party administrator, physician and attorney who participates in the workers' compensation system, an annual notice warning the recipient against committing workers' compensation fraud, and advising of the penalties for committing workers' compensation fraud. This is an annual notice to all California claims examiners and is not targeted to any specific entities or individuals.

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CLAIMS ADJUSTER FRAUD

Claims adjuster fraud can happen in several ways. In some cases, a claims adjuster may embezzle from his or her employer by causing payments to be made to non-existent claimants or medical providers. Adjusters may also refer patients or clients to medical providers or attorneys for compensation or issue excessive payments to an attorney or medical provider in return for a kick-back. In other cases, an adjuster may backdate documents in an attempt to avoid penalties for delays in benefit payments or alter documents to support an unjustified denial of a claim.

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To: All California Employers
From: Administrative Director, Division of Workers' Compensation
Subject: Workers' Compensation Fraud Warning Notice

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WHAT CONSTITUTES EMPLOYER FRAUD?

- **Premium fraud:** when an employer schemes to defraud their workers' compensation insurer by paying less for their workers' compensation insurance than they should. Examples include under-reporting payroll, misclassifying employees' job descriptions, paying an employee's medical provider directly for medical treatment for a work related injury.
- **Failing to secure workers' compensation insurance coverage**

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To: All California Medical Providers
From: Administrative Director, Division of Workers' Compensation
Subject: Workers' Compensation Fraud Warning Notice

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WHAT CONSTITUTES MEDICAL PROVIDER FRAUD?

- Billing fraud
- Employing individuals to solicit new patients
- Unnecessary treatment or self-interested referrals
- Failing to report a work injury

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